

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KEVIN RICHARD KUNTZ,

Defendant.

CR 24-02-BU-DLC

ORDER

Before the Court is United States Magistrate Judge Kathleen L. DeSoto's Findings & Recommendation Concerning Plea. (Doc. 23.) Because neither party objected, they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, the Court reviews the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Defendant Kevin Richard Kuntz is charged with one count of possession with intent to distribute cocaine, in violation of 21 U.S.C. § 841(a)(1) (Count 1), and three counts of distribution of cocaine, in violation of 21 U.S.C. § 841(a)(1) (Counts 2-4), as set forth in the Indictment. (Doc. 1.) Judge DeSoto recommends

that this Court accept Kuntz's guilty plea as to Count 1 after Kuntz appeared before her pursuant to Federal Rule of Criminal Procedure 11. The Court finds no clear error in Judge DeSoto's Findings and Recommendation and adopts them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Judge DeSoto's Findings and Recommendation (Doc. 23) is ADOPTED in full.

IT IS FURTHER ORDERED that Kuntz's motion to change plea (Doc. 14) is GRANTED.

IT IS FURTHER ORDERED that Kuntz is adjudged guilty as charged in Count 1 of the Indictment.

DATED this 8th day of May, 2024.



Dana L. Christensen, District Judge
United States District Court